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OGC REVIEW COMPLETED

1 October 1953

MEMORANDUM FOR: Inspector General

SUBJECT :

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1. We have gone into the payment to [] of a special living allowance as thoroughly as we can. Our conclusion is that there was no legal basis for authorizing the payment, and it appears there was not even a valid justification. On the legal basis we have not only the Comptroller General's rulings, but we have the opinion of the Court of Appeals which required collection back from [] of per diem paid under somewhat similar circumstances, and we believe the two situations are identical.

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2. The only justification suggested by the branch is that the allowance was required by the peculiar nature of CIA operations. However, the file and everything else we have been able to look into indicate that [] was living under circumstances no different from those of other officers in the [] area. Since the area division had inquired about the possibility of paying under other types of allowances before they suggested a special living allowance, we feel they had every reason to know that the allowance should not have been authorized or, at the very least, had every reason to ask for a ruling in advance.

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3. On the other hand, while [] is theoretically charged with knowledge of the law and regulations, there is almost no way he could have asked for a ruling in advance, and, under the circumstances, there was no reason for him to question the validity of the allowance. While this does not, under the law, relieve [] of liability, in my opinion the primary liability should fall on those who authorized payment under these circumstances. Certainly no action need be taken against [] until it is determined that collection cannot be made from those primarily in error.

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LAWRENCE R. HOUSTON
General Counsel

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